SINGAPORE REPORTS

MATHEW BOHMAN v. JURONG TOWN CORPORATION

[C.A. (Wee Chong Jin C.J., Kulasekaram & Rajah JJ.) January 22, 1981]

[Singapore — Civil Appeal No. 69 of 1980]

Tort — Negligence — Tenant injured by fall over steps at premises — Whether landlord negligent — Factories Act (Cap. 123), s. 33(2) & (4) — Occupiers' Liability Act 1957 (U.K.), s. 4(1).

Landlord & Tenant — Negligence — Claim by injured tenant — Fall over steps at premises — Duty of landlord to tenant.

Interpretation — "All openings in floors" distinguished from "unfenced edges of a platform" — Factories Act, 1973, s. 33(2).

The appellant in this case was a tenant of the respondent. On June 21, 1976, the appellant was standing on the edge of the platform, in a position immediately adjacent to the steps, and supervising the loading of goods into a lorry which had backed against the platform when he inadvertently stepped back on to the flight of steps which lead up to the platform. He fell and sustained injuries. He claimed damages for personal injuries. The learned District Judge dismissed the appellant's claim with costs. The appellant's appeal to the High Court (see [1981] 1 M.L.J. 134) was also dismissed. He appealed to the Court of Appeal.

Held, dismissing the appeal: (1) the appellant fell over the edge of the platform and not down an opening in the platform;

(2) the words used in section 33(2) of the Factories Act, 1973, are "All openings in floors" and the unfenced edges of a platform are not openings in a floor within the contemplation of the section.

Case referred to:-

(1) *Street* v. *British Electricity Authority* (1952) 1 T.L.R. 799, 805.

CIVIL APPEAL.

Kan Ting Chia for the appellant.

J. Grimberg for the respondent.

Cur. Adv. Vult.

Wee Chong Jin C.J. (delivering the judgment of the Court): The appellant Mathew Bohman occupies premises No. 3811D Jalan Bukit Merah, Redhill Industrial Estate, Singapore as tenant of the Jurong Town Corporation, the respondents in this appeal. The said premises are a factory unit within a flatted factory block known as Redhill Industrial Estate Block No. 1. There are 35 such units in this block. The appellant's unit is on the second floor of the building. He manufactures festive decorations and craft accessories. There is a loading platform floor or loading bay for the common use of the tenants of the factory block. This platform floor is raised a few feet from the road level so that when a lorry is backed against it, the floor boards of the lorry matches the level of the platform and this facilitates the loading of goods off and on the lorry. There is a short flight of steps at one end leading up to the platform floor.

On June 21, 1976, the appellant was standing on the edge of the platform, in a position immediately adjacent to the steps, and supervising the loading of goods into a lorry which had backed against the platform when he inadvertently stepped back on to the flight of steps which lead up to the platform. He suffered a fall and sustained injuries. He claimed damages for personal injuries on the following grounds: —

(a) Breach of statutory duty on the part of the respondents.

(b) Alternatively, negligence of the respondents, their servants and agents.

(c) Alternatively, breach of contract.

At the hearing of the claim before the District Court, special damages were agreed at $144 and general damages at $6,000. Evidence was called by both parties on the issue of liability. The District Judge dismissed the appellant's claim with costs.

The appellant appealed to the High Court but was unsuccessful. He now appeals against the decision of the High Court. He raises two grounds. First, it is submitted that on the evidence the trial judge and the High Court ought to have found that the respondents, by failing to fence off the edge of the platform adjacent to the steps into which he fell down, were in breach of their duty to persons who have a contractual right to use the platform to ensure that the platform is safe for their use. In our judgment, on the evidence, this ground is without substance.

The other ground is that the High Court was wrong in failing to hold that the respondents were in breach of section 33(2) of the Factories Act, 1973. It was conceded before the High Court that the platform is a factory within the meaning of the Factories Act, 1973. Section 33(2) reads: —

"All openings in floors shall be securely fenced, except in so far as the nature of the work renders such fencing impracticable."

The submission is that the appellant fell down an opening in the platform floor and that therefore section 33(2) must be applied. It is clear from the photograph exhibits which are included in the Record of Appeal that the appellant fell over the edge of the platform and not down an opening in the platform. Section 33(2) says, in effect that if you have a floor in a factory you must not have an open hole in it down which someone can fall and you must have it securely fenced unless to do so renders this impracticable having regard to the nature of the work carried out on that floor. The words used in subsection (2) are "All openings in floors" and in our opinion the unfenced edges of a platform are not openings in a floor within the contemplation of the section. If a person walks off a platform he does not fall down a hole or opening in the platform; he falls over the edge of the platform [*per* Singleton L.J. *obiter* in *Street* v. *British Electricity Authority*[1]].

In our judgment, the appeal must be dismissed with costs.

Appeal dismissed.

Solicitors: *Hilborne & Co.; Drew & Napier.*